

<b>AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT</b>				1. CONTRACT ID CODE		RATING			
2. AMENDMENT/MODIFICATION NO. A003			3. EFFECTIVE DATE 10/19/2009		4. REQUISITION/PURCHASE REQ. NO.		5. PROJECT NO. (If applicable)		
6. ISSUED BY International Boundary and Water Commission (IBWC) USIBWC - ACQUISITIONS DIV 4171 NORTH MESA, STE. C100 EL PASO, TX 79902-1441			CODE IBWC_  NAME Colleen Elliott TEL.  EMAIL elliottc@state.gov		7. ADMINISTERED BY (If other than Item 6) International Boundary and Water Commission (IBWC) USIBWC - ACQUISITIONS DIV 4171 NORTH MESA, STE. C100 EL PASO, TX 79902-1441			CODE IBWC	
8. NAME AND ADDRESS OF CONTRACTOR (No., street, country, state and ZIP Code)					(X)		9A. AMENDMENT OF SOLICITATION NO. IBM09B0003		
					X		9B. DATED (SEE ITEM 11) 09/05/2009		
							10A. MODIFICATION OF CONTRACT/ORDER NO.		
							10B. DATED (SEE ITEM 13)		
CONTACT				DUNS					
CODE			FACILITY CODE						
<b>11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS</b>									
<input checked="" type="checkbox"/> The above numbered solicitation is amended as set forth in item 14. The hour and date specified for receipt of Offers					<input type="checkbox"/> is extended, <input checked="" type="checkbox"/> is not extended,				
<p>Each person who submits an offer shall acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing items 8 and 15, and returning ___1___ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.</p>									
12. ACCOUNTING AND APPROPRIATION DATA (If required)									

13. THIS ITEM ONLY APPLIES TO MODIFICATION OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.	
CHECK ONE	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
	D. OTHER (Specify type of modification and authority)
E. IMPORTANT: Contractor <input checked="checked" type="checkbox"/> is not, <input type="checkbox"/> is required to sign this document and return copies to the issuing office.	
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)	

Solicitation Amendment IBM09B0003-A003 is issued to:

- A. Correct typographical error in SF 1442, Block 10 changing 'mandator' to 'mandatory' in the last sentence of the third paragraph. In Section H, eliminate the '6' at the beginning of the first sentence of the first paragraph at H.1.
- B. In Section J, provide revised plan sheets as indicated at J.13 and provide the answers to questions received in J.15.
- C. In Section K, provide the complete full text of the K.3 clause 52.225-20.
- D. In Section L, correct the title of the provision at L.4, 52.225-24, from 'Trace' to 'Trade' Agreements.
- E. Extend the deadline for receipt of bids to 4:00 p.m Mountain on Friday, October 23, 2009.

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print)		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) <b>Colleen Elliott</b>	
15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA	16C. DATE SIGNED
_____ (Signature of person authorized to sign)		By _____ (Signature of Contracting Officer)	

*Summary Info Continuation Page*

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Line Item Summary	Solicitation Number: IBM09B0003	Contract Number:	Title: RECOVERY Construct Hidalgo I & II Levee Improve			Date of Solicitation: 10/19/2009
Line Item No.	Description		Quantity	Unit	Unit Price	Total Cost
	<b>Applicable Contract Line Item Numbers (CLINs):</b> 001 - 032 Hidalgo Phase I 033 - 061 Hidalgo Phase II					
	<b>NOTE: All quantities are 'estimated.'</b>  Please show subtotals and total bid in Block 17 of the SF 1442 as follows:  001-032 \$ _____ 033-061 \$ _____  <b>Total Bid: \$</b> _____					

## Section J - List of Attachments

J.13 Plans 09/04/2009

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Hidalgo Phase I 57 sheets & Hidalgo Phase II 39 sheets.

IBM09B0003-A003 plan sheet changes (replace or add) as follows:

### Phase I

- Dwg01 – Title Sheet – index of sheets, added plan sheets
- Dwg08, 08A-08D – corrected text overlap in legend
- Dwg09 – 09AA – revised to show ROW limits on river side
- Dwg12 – Vehicular Gate Detail Sheet
- Dwg13 – Environmental Sheet (EPIC)

### Phase II

- Dwg01 – Title Sheet – index of sheets, added plan sheets
- Dwg03 – Added general note under Prep Right of Way for lights and light poles.
- Dwg06 – Added sheet pile to sections; labeled usual elevation
- Dwg09, 09A-09E – Added sheet pile to each section; corrected vertical elevation label
- Dwg10 – Revised sheet pile to PZC13
- Dwg10E – Revised sheet pile to PZC13
- Dwg10H – Revised sheet pile to PZC13
- Dwg14 – Environmental Sheet (EPIC)

J.15 Answers to Questions 10/19/2009

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**On 09-14-09 from Howard Wittenberg, Project Manager, CKY Inc., e-mail howard@ckyinc.com**

**Question:** Hours are limited from 7am-4pm however Phase 2 requires night time work for the bridge improvements with hours from 11pm-6am. The specs state that government oversight charges will be removed from each billing during non-working hours. Please provide a burn rate based on the 7 night time working hours for the bridge improvements.

**Answer:** For work performed outside of 'normal' business hours, the current estimated hourly rate is \$400.02 and is broken down as follows: S&B Construction Engineer (straight-time/overtime) \$150.95; S&B Construction Inspector (time-and-one-half) \$134.72; IWC Inspector (time-and-one-half) \$54.16; IBWC Contracting Officer's Representative (COR) (straight-time/over-time) \$60.19. Note: The construction management contractor has not been selected and the rates may vary.

**On 09-14-09 from James Eckroat, McAllen Construction, e-mail Jim@mconst.com**

**Question:** Mr. Avila (from Avila Stone) has presented the merits of his products a several pre-bid conferences. Does Mr. Avilla's stone meet the "buy American" requirements of the referenced project?

**Answer:** If the stone meets the specification requirements and clause 52.225-23, Required Use of American Iron, Steel, and Other Manufactured Goods—Buy American Act—Construction Materials Under Trade Agreements (Mar 2009) at I.5 in Section I; and provision 52.225-24 Notice of Required Use of American Iron, Steel, and Other Manufactured Goods—Buy American Act—Construction Materials Under Trade Agreements (Mar 2009) at L.4 in Section L. No waivers are contemplated under the American Recovery and Reinvestment Act (ARRA or RECOVERY) for this project.

**On 09-14-09 from Justin Perry, Revegetation Services, Native Re-vegetation and Erosion Control Experts, e-mail justin@reveg.net**

**Question:** We have just notice some confusing information in the specs for the Hidalgo Loop Levee project (Solicitation # IBM09B0003). In the specification section 31 92 00 Vegetation For Erosion Control Section 3.3 Seeding. The specs are stating the contractor can bid some different options for method of seeding. We understand the method options between Broadcast seeding and Drill seeding but where we are getting confused is where the Mulch becomes involved. Mulching is generally a separate step from seeding and we can see that with broadcast seeding there are different options for mulching, but with the drill seeding (item D.) is straw or hay mulching the only acceptable method of mulching? I think maybe item E. Straw or Hay mulching just appears to general and it does not state that it is to be used with drill seeding as the other mulching method options state they are to be done after broadcast seeding. Please let me know if we can clear this up or if you can provide me with any additional information that would help me clear this up.

This issue is also present in the Construction of Levee Improvements on the North Floodway (Phase 1 and 2) and Arroyo Colorado (Phases 1 & 2) project Solicitation # IBM09B0004, specifications 31 92 00 Vegetation For Erosion Control, section 3.3 Seeding.

**Answer:** Yes, straw or hay mulching is the only acceptable method of mulching for drill seeding. The cellulose fiber mulch only applies to "Broadcast Seeding" as stated in specification. The tacking agent required for straw or hay mulching is shown in the general notes, Sheet 3. (For the North Floodway and Arroyo Colorado same response, except in that plan set the general notes are Sheet 3.01.)

**On 09-28 from James Buttles, L.B. Foster Company, e-mail JButtles@lbfoosterco.com**

**Question:** Good afternoon, I will be submitting a bid for the above referenced project for steel sheet piling . My question is this: Is this project buy american? If so, there are [no (sic)] domestic mills that produce equivalent sheet pile sections to the AZ-13 Sheet specified on this project. The AZ sheets are produced in Europe.

PZC sheets are produced here in the U.S. Please respond asap as this project bids on 9-30-09... enclosed is a PZC-13 data sheet for comparison to the AZ section.

**Answer:** PZC-13 shall be used for Buy America; plan sheets have been revised.

**On 10-01-09 from Michael C. Lloyd, Corporate Director Pre-construction Services, SBBI Inc, General Contractors, e-mail mlloyd@sbbiaz.com**

**Question:** The solicitation documents for Phase I indicate the there is a vehicular gate to be furnished and installed. There are no details on the drawings to indicate the construction of the gate or the location. Please clarify.

**Answer:** Plan Sheet 12 has been added to the plans illustrating this detail.

**On 10-12-09 from Jim Eckroat, McAllen Construction, Inc., , e-mail**

**Jim@mconst.com**

**Question:** On the Phase 2 project During the site visit it was noted that there is some existing lighting on the riverside of the security fencing from Station 55+00 +- to station 50+00 +-. The location of these lights is in conflict with construction of the new floodwall. These lights are not shown on the drawings and there is no mention in the drawings in regards to the Contractor's responsibility regarding the maintenance or relocation of these lights. Pleas advise..

**Answer:** Contractor's responsibility under Prep Right of Way; clarified with general note on Plan Sheet No. 3.

## Section K - Representations, Certifications, and Other Statements of Offerors or Respondents

K.3 52.225-20 Prohibition on Conducting Restricted Business Operations in Sudan--Certification (Aug 2009)

08/01/2009

**(a) Definitions.** As used in this provision—

**“Business operations”** means engaging in commerce in any form, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

**“Marginalized populations of Sudan”** means—

(1) Adversely affected groups in regions authorized to receive assistance under section 8(c) of the Darfur Peace and Accountability Act (Pub. L. 109-344) ([50 U.S.C. 1701 note](#)); and

(2) Marginalized areas in Northern Sudan described in section 4(9) of such Act.

**“Restricted business operations”** means business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174). Restricted business operations do not include business operations that the person (as that term is defined in Section 2 of the Sudan Accountability and Divestment Act of 2007) conducting the business can demonstrate—

(1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;

(2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;

(3) Consist of providing goods or services to marginalized populations of Sudan;

(4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(5) Consist of providing goods or services that are used only to promote health or education; or

(6) Have been voluntarily suspended.

**(b) Certification.** By submission of its offer, the offeror certifies that the offeror does not conduct any restricted business operations in Sudan.



## Section L - Instructions, Conditions, and Notices to Offerors and Respondents

L.4 52.225-24 Notice of Required Use of American Iron, Steel, and Other Manufactured Goods--Buy American Act--Construction Materials Under Trade Agreements (Mar 2009)

03/01/2009

(a) **Definitions.** "Construction material," "domestic construction material," "foreign construction material," "manufactured construction material," "Recovery Act designated country construction material," "steel," and "unmanufactured construction material," as used in this provision, are defined in the clause of this solicitation entitled "Required Use of Iron, Steel, and Other Manufactured Goods-Buy American Act-Construction Materials Under Trade Agreements" (Federal Acquisition Regulation (FAR) clause 52.225-23).

(b) **Requests for determination of inapplicability.** An offeror requesting a determination regarding the inapplicability of section 1605 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (Recovery Act) or the Buy American Act should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause 52.225-23 in the request. If an offeror has not requested a determination regarding the inapplicability of section 1605 of the Recovery Act or the Buy American Act before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

(c) **Evaluation of offers.**

(1) If the Government determines that an exception based on unreasonable cost of domestic construction material applies, the Government will evaluate an offer requesting exception to the requirements of section 1605 of the Recovery Act or the Buy American Act by adding to the offered price of the contract--

(i) 25 percent of the offered price( of the contract, if foreign iron, steel, or other manufactured goods are used as construction material based on unreasonable cost of comparable manufactured domestic construction material; and

(ii) 6 percent of the cost of foreign unmanufactured construction material included in the offer based on unreasonable cost of comparable domestic unmanufactured construction material.

(2) If two or more offers are equal in price, the Contracting Officer will give preference to an offer that does not include foreign construction material excepted at the request of the offeror on the basis of unreasonable cost.

(d) **Alternate offers.**

(1) When an offer includes foreign construction material, other than Recovery Act designated country construction material, that is not listed by the Government in this solicitation in paragraph (b)(3) of FAR clause 52.225-23, the offeror also may submit an alternate offer based on use of equivalent domestic or Recovery Act designated country construction material.

(2) If an alternate offer is submitted, the offeror shall submit a separate Standard Form 1442 for the alternate offer and a separate cost comparison table prepared in accordance with paragraphs (c) and (d) of FAR clause 52.225-23 for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of FAR clause 52.225-23 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic or Recovery Act designated country construction material, and the offeror shall be required to furnish such domestic or Recovery Act designated country construction material. An offer based on use of the foreign construction material for which an exception was requested--

(i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or

(ii) May be accepted if revised during negotiations.